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INFO OCT-01 SS-14 ISO-00 PM-03 SP-01 INR-05 L-01 CIAE-00

DODE-00 NSC-05 NSCE-00 /038 W

----- 100741

R 221553Z JAN 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 5864

USMISSION USBERLIN

INFO AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 01 OF 02 BONN 01167

LIMDIS

E.O. 11652: GDS

TAGS: PFOR, WB, US, UK, FR, UR,

SUBJECT: CONTINGENCY PLANNING FOR DEATH OF RUDOLF HESS

REFS: (A) OFFICIAL-INFORMAL SMYSER-ANDERSON LETTER,
JAN. 15, 1976; (B) OFFICIAL-INFORMAL GREENWALD-GERMAN
LETTER (CC TO EUR/CE, KORNBLUM), NOV. 20, 1975;
(C) GREENWALD-GERMAN/KORNBLUM/SMALL MEMORANDUM, JULY 23,
1975

SUMMARY: TRIPARTITE DISCUSSIONS OF CONTINGENCY PLANNING
FOR HESS' DEATH HAVE LED TO TENTATIVE CONCLUSION THAT IT
ADVISABLE TO APPROACH SOVIETS WITH GOALS OF SATISFYING
OURSELVES THAT SOVIETS CONSIDER MARCH 12, 1970 AGREEMENT
AS OPERATIVE AND OF ESTABLISHING AGREED PROCEDURE TO BE
FOLLOWED UPON HESS' DEATH. REQUEST DEPARTMENT APPROVAL
TO PROCEED WITH TRIPARTITE PLANNING ON THIS BASIS.
PACKAGE DEVELOPED WOULD BE SUBMITTED TO CAPITALS FOR
FINAL APPROVAL. END SUMMARY.

1. TRIPARTITE DISCUSSIONS HAVE BEEN HELD ON SCENARIO
PRODUCED BY BERLIN MISSIONS (REF B) AND ON ALTERNATIVE
SCENARIO PREPARED BY EMBASSY (REF A). BASIC POINTS OF
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BOTH SCENARIOS ARE:

-- A) A CASE CAN BE MADE THAT THE 1970 AGREEMENT (WHICH PROVIDES FOR CREMATION AND TURNOVER OF ASHES TO HESS FAMILY) DID NOT ACTUALLY ENTER INTO FORCE AND THAT THE 1954 AGREEMENT (WHICH FORESAW BURIAL ON SPANDAU GROUNDS) STILL STANDS;

-- B) NONE OF THE THREE ALLIES DESIRES HESS' REMAINS TO BE BURIED AT THE PRISON; AND

-- C) GIVEN HESS' ADVANCED AGE (NEARLY 81) IT WOULD BE PRUDENT FOR ALLIES TO DECIDE AMONG SELVES ON WHAT THEY WANT TO HAPPEN UPON HESS' DEATH AND THEN POSSIBLY SEEK SOVIET AGREEMENT TO PROCEDURE AND, IF POSSIBLE AT SAME TIME AND BY INDIRECTION, SATISFY THEMSELVES THAT SOVIETS CONSIDER THE 1970 AGREEMENT AS OPERATIVE.

2. AS BACKGROUND, IT WILL BE RECALLED THAT THE SCENARIO DEVELOPED IN BERLIN (REF B) FORESAW AN APPROACH BY CHAIRMAN ALLIED POLAD TO KHOTULEV. POLAD WOULD TELL KHOTULEV THAT THE THREE POWERS STILL FAVORED HESS' RELEASE, BUT POLAD WOULD THEN HAND OVER ARRANGEMENTS/ PROCEDURES PAPER WHICH WOULD SPELL OUT STEPS THE FOUR WOULD TAKE UPON HESS' DEATH. PAPER WOULD BE PASSED BY POLAD SAYING HE WAS DOING SO "IN IMPLEMENTING OUR 1970 AGREEMENT REACHED BY FOUR SPANDAU GOVERNORS." AN ALTERNATIVE SCENARIO DEVELOPED HERE (REF A) FORESAW APPROACH TO SOVIETS IN SAME CHANNEL, BUT IT WOULD HAVE BEEN CHARACTERIZED AS CONTINUATION OF PRESENT ALLIED-SOVIET DIALOGUE IN WHICH THE THREE HAVE AGAIN ASKED FOR AGREEMENT TO HESS' RELEASE. POLAD WOULD THEN HAVE RESTATED THE POSITION THE ALLIES HELD IN 1969-70 PRIOR TO THE 1970 AGREEMENT, THAT HESS' BODY SHOULD BE GIVEN TO HIS FAMILY FOR DISPOSITION OUTSIDE BERLIN. WHILE SOVIET AGREEMENT TO THIS METHOD OF DISPOSITION WOULD BE WELCOME, THE MAJOR GOAL OF THE ALTERNATIVE SCENARIO WAS BY USE OF INDIRECTION TO OBTAIN SOVIET CONFIRMATION OF 1970 AGREEMENT.

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3. WHILE EMBASSY STILL SEES SOME MERIT IN THE ALTERNATIVE SCENARIO, FRENCH AND BRITISH HERE HAVE EXPRESSED PROBLEMS WITH IT:

-- A) THEY SAY IT IS UNDESIRABLE TO REOPEN FUNDAMENTAL ISSUE, WHICH COULD HAPPEN IF POLAD WERE TO RESTATE 1969-70 ALLIED POSITION THAT BODY SHOULD BE GIVEN TO FAMILY; AND

-- B) THE POLAD CHANNEL SHOULD BE AVOIDED BECAUSE
MATTER SHOULD BE TREATED AS A TECHNICAL MATTER FOLLOWING

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DODE-00 NSC-05 NSCE-00 /038 W

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R 221553Z JAN 76

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UP ON 1970 AGREEMENT WHICH WAS CONCLUDED AT SPANDAU
GOVERNORS LEVEL.

4. GIVEN THESE FRENCH/BRITISH VIEWS, AND BECAUSE WE SEE
FRENCH WILLINGNESS TO PROCEED VIS-A-VIS THE SOVIETS AS A
MAJOR STEP FORWARD, WE HAVE JOINED IN THE FOLLOWING
GENERAL TRIPARTITE CONCLUSIONS:

-- A) IN SPITE OF NORMAL DESIRE TO AVOID OPENING
WITH SOVIETS DISCUSSION AS DEMANDEUR ON ANY SUBJECT.
UNCERTAINTIES REGARDING STANDING OF 1970 AGREEMENT AND
ON CONTINGENCY PLANNING FOR HESS' DEATH SHOULD BE
RESOLVED IF POSSIBLE;

-- B) ALLIES WILL NOT BE IN ANY WORSE POSITION
SHOULD IT BE ESTABLISHED THAT SOVIETS DO NOT CONSIDER
1970 AGREEMENT AS FINAL AND BINDING; IN FACT, IF THIS IS
CASE WE ARE BETTER OFF TO KNOW IT BEFOREHAND;

-- C) BEST CHANNEL FOR ALLIED APPROACH TO SOVIETS
WOULD BE GOVERNORS LEVEL. THE 1970 AGREEMENT WAS
HANDLED THERE AND IT
WOULD SEEM LESS FORCED TO FOLLOW-UP THERE. THAT SOVIET
GOVERNOR IS A MILITARY MAN WOULD NOT SEEM TO MAKE
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SIGNIFICANT DIFFERENCE;

-- D) APPROACH TO SOVIET GOVERNOR COULD BE MADE
WITHIN CONTEXT OF REGULAR MEETING. ALLIED GOVERNOR(S)
COULD REFER TO NEGATIVE SOVIET REPLY (AFTER GIVEN)
TO ALLIED DEMARCHES REQUESTING USSR AGREEMENT TO RELEASE
HESS AND ALSO REFER TO ADVANCED AGE. ONE OF ALLIED
GOVERNORS COULD THEN PASS "CHRONOLOGY OF EVENTS" PAPER
(ON LINES PROVIDED IN REF B) TO SOVIET COUNTERPART,
CHARACTERIZING IT AS ACTION FORESEEN IN THE 1970 AGREE-
MENT; AND

-- E) IF SOVIET REP DENIED VALIDITY OF 1970 AGREE-
MENT, ALLIES WOULD HAVE TO BEGIN AGAIN THE PROCESS OF
CHANGING 1954 AGREEMENT, BUT WE WOULD ACTUALLY PERHAPS
BE BETTER OFF FOR KNOWING THE SOVIET POSITION.

5. ALLIED REPS ALSO CONCLUDED IT APPROPRIATE TIME TO
OBTAIN GUIDANCE FROM AUTHORITIES.

6. ACTION REQUESTED: DEPARTMENT GUIDANCE ON ABOVE.
IF ALLIED CAPITALS AGREE WITH CONCLUSIONS AS OUTLINED
ABOVE IN PARA 3, FEELING OF ALLIED REPS IS THAT
MATTER WOULD BE PUT BACK INTO BERLIN MISSION HANDS FOR
WORKING UP DETAILED SCENARIO FOR USE IN GOVERNORS
CHANNEL AND CHRONOLOGY PAPER WHICH PERHAPS WOULD CARRY
THROUGH TO POINT OF DEPARTURE FROM BERLIN OF HESS'
ASHES.
HILLENBRAND

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DEATHS, CONTINGENCY PLANNING
Control Number: n/a
Copy: SINGLE
Draft Date: 22 JAN 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BONN01167
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760024-0826
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760133/aaaabccke.tel
Line Count: 209
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: LIMDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 26 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 APR 2004 by izenbei0>; APPROVED <20 AUG 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONTINGENCY PLANNING FOR DEATH OF RUDOLF HESS
TAGS: PFOR, WB, US, UK, FR, UR, (HESS, RUDOLPH)
To: STATE USBERLIN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006